IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

CRP.No. 502 of 2007(G)

AA.179/2000 of APPELLATE AUTHORITY (LR), ALAPPUZHA, (LAND TRIBUNAL, KOTTAYAM)
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REVN. PETITIONER: RESPONDENT/APPICANT:

K.M.SASIDHARAN, KAITHAKATTU VEETTIL, MANJOOR.P.O., KOTHANALLOOR.

BY ADV. SRI.JOHN JOSEPH VETTIKAD
SRI.SABU GEORGE

RESPONDENTS: APPELLANTS/RESPONDENTS AND APPELLATE AUTHORITY:
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1. K.M.SADASIVAN, KAITHAKATTU VEETTIL, MANJOOR P.O., KOTHANALLOOR.

2. K.M. SUKUMARAN, -DO-.

3. APPELLATE AUTHORITY(LAND REFORMS) ALAPPUZHA.

R1 & R2 BY ADV. SRI.A.BALAGOPALAN
SRI.K.SANEESH KUMAR
SMT.KALA G.NAMBIAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.1288 OF 2007
IN
C.R.P.NO.502 OF 2007

DISMISSED

1/11/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 502 OF 2007

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Dated this the 1st day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Appellate Authority, Alappuzha in A.A.179/00 whereby the Appellate Authority allowed the appeal and set aside the order of the Land Tribunal. It is challenging that decision the present revision is preferred. The brief facts necessary for the disposal of the revision are as follows.

2. The question of tenancy was raised in a civil case filed as O.S.161/95 before the Munsiff Court, Ettumanoor. The question of tenancy was raised in that suit and as per the provisions of Section 125 of the Kerala Land Reforms Act it was referred to the Land Tribunal for adjudication. It was numbered as R.C.17/97. Along with R.C.17/97, the Land Tribunal also dealt with a suo motu proceeding 30/95 and passed a common order in those cases. By the common order the suo motu case 30/95 was allowed and the reference case 17/97 was answered to the effect that the claim of tenancy raised by the defendants in O.S.161/95 of the

Munsiff Court, Ettumanoor is true. On the basis of the finding on the reference the civil Court dismissed the suit. Against the said decision an appeal is preferred and it is pending before the District Court, Kottayam as A.S.41/01.

3. When a reference is made by a civil Court to the Land Tribunal and a finding is received under the provisions of the Kerala Land Reforms Act, it becomes a part of the finding of the civil Court and the same can be challenged by way of an appeal and that is what is precisely done in this case. Meanwhile against the suo motu case the plaintiff in the suit moved A.A.179/00 which has been allowed by the Appellate Authority dismissing the claim of tenancy.

4. Now, the question for consideration is whether the Appellate Authority has got such a jurisdiction to entertain the appeal. When a competent civil Court refers a tenancy issue and invites a finding from the Land Tribunal and as that finding becomes part of the record in the civil suit the ultimate result of the suit case depend upon the decision in the civil suit. The decision of the Land Tribunal in the

reference is open to challenge before the first Appellate Authority or as the case may be and the superior courts as well. Meanwhile, if parallel proceedings are entertained and Appellate Authority renders a finding there is every possibility of having conflict of decisions which will embarrass the whole system. So this question was precisely considered by this Court in the decision reported in ***Narayana Kamath v. Govinda Prabhu (1992 (1) KLJ 533)***. This Court held that in such cases after the reference is answered it is desirable that the action on the original application or the suo motu proceedings is dropped and after a final decision is rendered by the courts in the civil case the successful party can move the concerned land Tribunal for issuance of certificate of purchase in accordance with law. In the light of this judgment the procedure adopted by the Appellate Authority, Alappuzha is incorrect and he should not have entertained the appeal in the light of the decision referred to above. Therefore, the order of Appellate Authority is set aside and I close the suo motu proceedings initiated by the Land Tribunal

making it very clear that the successful party in the litigation can approach the Land Tribunal afresh for issuance of certificate of purchase after a final decision is rendered by the civil Court in the matter.

In the result the C.R.P. is allowed and disposed of as above. I make it very clear that the Appellate Court where the matter is pending has to consider it independently irrespective of the finding of the Appellate Authority.

M.N. KRISHNAN, JUDGE.

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